

HONORABLE BARBARA J. ROTHSTEIN

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

SIERRA CLUB, <i>et al.</i> ,)	
)	No. C11-1759BJR
Plaintiffs,)	
)	JOINT STATUS REPORT
and)	
)	
THE SPOKANE TRIBE OF INDIANS,)	
)	
Plaintiff-Intervenor,)	
)	
v.)	
)	
ACTING REGIONAL ADMINISTRATOR)	
OF THE ENVIRONMENTAL)	
PROTECTION AGENCY, MICHELLE)	
PIRZADEH, <i>et al.</i> ,)	
)	
Defendants,)	
)	
and)	
)	
SPOKANE COUNTY; KAISER)	
ALUMINUM WASHINGTON LLC; and)	
STATE OF WASHINGTON)	
DEPARTMENT OF ECOLOGY,)	
)	
Defendant-Intervenors.)	

1 The Parties in this action -- Plaintiffs Sierra Club and Center for Environmental Law &
 2 Policy, Defendants Acting Regional Administrator Michelle Pirzadeh and Administrator Scott
 3 Pruitt, in their official capacity, and the United States Environmental Protection Agency
 4 (collectively "EPA"), Intervenor-Plaintiff Spokane Tribe of Indians (the "Tribe"), and
 5 Intervenor-Defendants Spokane County, Kaiser Aluminum Washington LLC, and State of
 6 Washington, Department of Ecology ("Ecology") -- jointly submit this status report in
 7 accordance with the Court's January 17, 2017, Minute Order. Doc. No. 184. That order granted
 8 the unopposed motion filed by Plaintiffs and the Tribe to stay this case and directed the Parties to
 9 file a status report every 120 days. *Id.*

12 As previously explained, Ecology is undertaking the process to reissue National Pollutant
 13 Discharge Elimination System ("NPDES") permits for certain direct dischargers of, among other
 14 pollutants, total PCBs into the Spokane River. Doc. No. 183 ¶ 4. On November 28, 2016, EPA
 15 promulgated revisions to water quality criteria for toxic pollutants, including revisions to the
 16 water quality criteria for total PCBs, which are more stringent than the water quality criteria for
 17 total PCBs applicable to relevant portions of the Spokane River at the time that Ecology
 18 proposed to re-issue the NPDES permits. Ecology is continuing to consider how to address the
 19 revised water quality criteria in NPDES permits for Spokane River dischargers. In this regard,
 20 Ecology has nearly completed hosting a number of "listening sessions" with the permittees and
 21 other interested parties to assist Ecology in determining how to proceed with the permits.

24 At the same time, the Spokane River Regional Toxics Task Force is continuing to collect
 25 and analyze data regarding PCBs in the Spokane River. This includes the Task Force's
 26 contractor recently having completed a "mass balance" study for PCBs based on "homologs" – a
 27 group of PCB congeners with the same number of chlorine atoms – in order to refine the Task
 28

1 Force's understanding of how PCBs are reaching the River. The Washington legislature has
2 appropriated \$310,000 for the next biennium to support the work of the Task Force.

3 As explained in their prior motion, Plaintiffs and the Tribe may voluntarily dismiss this
4 case based on the terms Ecology includes in the relevant final NPDES permits. *Id.* ¶ 5.

5 Accordingly, the Parties continue to believe that proceedings in this case should remain stayed.

6 Therefore no action is required of the Court at this time, and the Parties will file as appropriate a
7 status report within the next 120 days in accordance with the Court's Minute Order.
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10 Respectfully submitted by:

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing filing was electronically filed with the Clerk of the Court on September 22, 2017, using the CM/ECF system, which will send notification of said filing to the attorneys in this case registered with the Court's CM/ECF system.

/S/ David Kaplan